The opinion in support of the decision being entered
today is *not* binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD J. CARTER and LUDMILA CHERKASOVA

Appeal 2007-0461
Application 09/272,810
Technology Center 2100

Decided: August 16, 2007

Before JAMES D. THOMAS, MAHSHID D. SAADAT, and
JEAN R. HOMERE, *Administrative Patent Judges.*

SAADAT, *Administrative Patent Judge.*

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final
rejection of claims 1-31, which are all of the claims pending in this
application. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants invented a method of processing client requests on the
Web by a network server. If the requests are canceled by the user or the
timed-out requests are not removed from the server queue, the Web server
can become overloaded and expend its resources on useless work instead of

valid requests (Specification, page 2). According to Appellants, by determining whether the client-to-server channel is still established, the invention prevents the processing of the timed-out requests and increases the efficiency in using the Web servers (Specification 3).

Independent claim 1 is representative of the invention and reads as follows:

> 1. A method comprising:
>
> establishing a network connection between a server and an external client, the network connection including a client-to-server channel and a server-to-client channel;
>
> receiving at the server a request from the client for a response by the server;
>
> before preparing a response to the client request, the server examining local server information to determine whether the client-to-server channel of the network connection with the requesting client is still established; and
>
> the server not preparing the response to the client request if the client-to-server channel is determined to be no longer established.

| Huras | US 6,125,401 | Sep. 26, 2000 (filed Mar. 28, 1996) |
| Hong | US 6,563,821 B1 | May 13, 2003 (filed Sep. 29, 1998) |

The Examiner rejected claims 1-4, 6-11, and 13-21 under 35 U.S.C. § 102(e) as anticipated by Huras and claims 5, 12, and 22-31 under 35 U.S.C. § 103(a) as being unpatentable over Huras and Hong.

Rather than repeat the arguments here, we make reference to the Brief and the Answer for the respective positions of the Appellants and the Examiner.

We affirm-in-part.

ISSUE

Appellants and the Examiner disagree as to whether Huras discloses "establishing a network connection between a server and an external client." Appellants contend that the communications between the client processes and the server processes of Huras are not communications between a server and an external client since the client process of Huras cannot be characterized as "external clients" (Br. 10). The Examiner contends that instead, terminal 141 and PC 151 are external clients which establish client processes 140 and 150 via their connections and provide for the claimed determining whether the client-to-server channel is still established (Answer 7-8).

The issues, therefore, are whether the Examiner erred in rejecting the claims under 35 U.S.C. §§ 102(e) and 103(a). The issues specifically turn on whether Huras anticipates Appellants' claimed invention by disclosing "establishing a network connection between a server and an external client" and preparing a response to the client's request based on determining whether such connection is still established.

FINDINGS OF FACT

The following findings of facts (FF) are relevant to the issues at hand:

1. Huras relates to client-server systems wherein abnormal termination of a client process is detected (col. 1, ll. 50-53).

2. Huras discloses a single machine computer system, such as a mainframe computer, which allows inter-process communication between client processes and server processors running on the computer system (col. 4, ll. 40-46).

3. As depicted in Figure 1, Huras discloses terminal 141 and personal computer 151 connected to the computer system and communicating with client processes 140 and 150 respectively (col. 4, ll. 49-53). The middle portion of the Figure also shows inter-process communication resources 200 and 210 established for enabling data transfer between client and server processes (col. 4, ll. 56-60).

4. Client process 140 is established by an application program running on terminal 141 (col. 5, ll. 10-14) which goes through an initialization process by setting and sending a set of semaphores (col. 5, l. 24 through col. 6, l. 31).

5. Huras further discloses that the system checks for a send semaphore and whether it was posted by the client process or the operating system indicating the termination of the client process (col. 7, l. 64 through col. 8, l. 2).

6. Huras discloses that if the send semaphore is set to indicate termination of the client process, the server process will execute a terminate server routine in order to free up the system resources (col. 8, ll. 3-9).

PRINCIPLES OF LAW

A rejection for anticipation requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. *See Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1946 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

ANALYSIS

As described above, Huras checks the client process and if found terminated, executes a terminate Server Process routine to terminate the server process (FF 5-6). For such determination, the server processes and the client processes must be characterized as the claimed server and the external client respectively. However, the client server cannot be an external client to the server process since Huras describes the client process and the server process as processes within a single machine (FFs 1 & 2). Therefore, we agree with Appellants (Br. 10) that the inter-process communications between the client process and the server process in Huras are not communications between a *server* and an *external client*, as required by claims 1, 15, 16, and 21 (FF 3).

Even if terminal 141 and PC 151 can be considered as external clients to the single machine system 100 of Figure 1, the only termination checked by the computer system is the one between the client process and the server process, which are both internal to the system (FF 2). We also agree with Appellants (Br. 12) that Huras does not make any determination as to whether the communication between the server process included in the

computer system and any of these external clients is still established. As such, while Huras discloses that the applications run on terminal 141 and PC 151 interact with the computer system and establish a client process (FF 4), Huras has no teachings related to determining whether the connections between the computer system and any of these external clients are still established.

Thus, we disagree with the Examiner (Answer 7) that determining the connection between the client process and the server process in Huras is a determination of connection between a server and an external client. Similarly, we disagree with the Examiner (*id.*) that any determination is made with respect to the communication between the user terminal 141 and any of servers 310, 340, or 350.

With respect to claim 8, we note that the client is not required to be an external one and therefore, communications between a server and a client, that is not external, is not precluded. As discussed above, although the client process may not be external to the server process, the communication between the client process and the server process of Huras is nonetheless the same as the claimed client-to-server channel. Similarly, as discussed above, the server process of Huras checks the client process and executes a terminate Server Process routine to terminate the server process if the client process is found terminated (FF 5-6).

Therefore, we remain unpersuaded by Appellants' arguments (Br. 23) and find that claim 8 can properly be read on the computer system disclosed by Huras which determines whether the communication between a server process and a client process, that is not external, is terminated. With respect to claims 9-11, 13, and 14, Appellants mainly repeat the claimed limitations

and assert their absence in Huras (Br. 23-26). However, we agree with the Examiner's position (Answer 10-13) as we find that the Examiner, through reasonably detailed explanation, has shown how the claims are anticipated by Huras. Similarly, Appellants provide no detailed arguments with respect to the rejection of claims 12, 24, 25 over the combination of Huras and Hong (Br. 35).

CONCLUSION

On the record before us, the Examiner fails to make a prima facie case that Huras anticipates claim 1, 15, 16, and 21 which require determining whether the communication between a server and an external client is still established. However, we reach the opposite conclusion with respect to claim 8. Therefore, in view of our analysis above, we sustain the 35 U.S.C. § 102 rejection of claims 8-11, 13, and 14 but do not sustain the 35 U.S.C. § 102 rejection of claims 1-4, 6, 7, and 15-21. Additionally, the 35 U.S.C. § 103 rejection of claims 5, 22, 23, and 26-31 over Huras and Hong cannot be sustained as we fail to find any teachings in Hong to overcome the deficiencies of Huras discussed above. However, we sustain the 35 U.S.C. § 103 rejection of claims 12, 24, and 25 over Huras and Hong.

DECISION

The decision of the Examiner rejecting claims 1-4, 6, 7, and 15-21 under 35 U.S.C. § 102 and claims 5, 22, 23, and 26-31 under 35 U.S.C. § 103 is reversed, but affirmed with respect to the 35 U.S.C. § 102 rejection of claims 8-11, 13, and 14 and the 35 U.S.C. § 103 rejection of claims 12, 24, and 25.

No time period for taking any subsequent action in connection with the appeal may be extended under 37 C.F.R. § 1.136(a).

<u>AFFIRMED-IN-PART</u>

gw

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